

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
Plaintiff)
vs) 16-CR-152
JOSIAH FERREBEE,)
Defendant)

TRANSCRIPT OF PROCEEDINGS - EX PARTE MOTION HEARING
BEFORE THE HONORABLE JAMES M. MUNLEY
THURSDAY, MAY 4, 2017; 11:30 A.M.
SCRANTON, PENNSYLVANIA

FOR THE GOVERNMENT:

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FOR THE DEFENDANT:

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Proceedings recorded by machine shorthand, transcript produced by computer-aided transcription.

KRISTIN L. YEAGER, RMR, CRR
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235 N. WASHINGTON AVENUE
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1 THE COURT: We're present here and counsel is here. And this
2 is a motion by Mr. Ferrebee.

3 MS. OLSHEFSKI: Your Honor, would you like me to step out?

4 THE COURT: Would you step out while we discuss this matter?

5 (At this time AUSA Michelle Olshefski was excused from the
6 courtroom.)

7 THE COURT: Mr. Ferrebee, you've asked for counsel to be
8 substituted.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Your counsel is present, his name is Osborne.
11 And I've read your petition. Do you want to tell me -- do you
12 want me to list what you put down here or do you want to tell
13 me?

14 THE DEFENDANT: I would just like to have him substituted,
15 on grounds that I believe that he does not have my best
16 interests at hand.

17 THE COURT: How come?

18 THE DEFENDANT: He has once seen me.

19 THE COURT: Speak up. You've got to keep your voice up. I'm
20 sorry.

21 THE DEFENDANT: Since Friday, January 27, 2017, my attorney
22 has contacted me only once at the Lackawanna County Prison.

23 THE COURT: Since when?

24 THE DEFENDANT: January 27 of 2017. It was a Friday.

25 THE COURT: All right.

1 THE DEFENDANT: He has told my family that he has put in
2 motions, however, I have not seen them on my court docket, at
3 all. I'm not really understanding exactly what motions were
4 going in.

5 He has put in a motion, back in June, to have a
6 psychological evaluation done on me. That sent me to the State
7 of Washington to the Federal Bureau of Prisons. However, I was
8 there without any type of legal counsel to represent me.

9 THE COURT: What else?

10 THE DEFENDANT: He has put in multiple motions to extend
11 time to file pre-trial motions since about December. He hasn't
12 really consulted me on doing so or --

13 THE COURT: Wait a minute. You just told me that he wasn't
14 appointed until January of 2017. Now you're talking about
15 December?

16 MR. OSBORNE: No, Judge, that's not correct. I was appointed
17 back in November of 2016.

18 THE COURT: Okay, go ahead.

19 THE DEFENDANT: He has put in, like I said, multiple motions
20 to extend time to file pre-trial motions. He didn't really come
21 to me about doing it or getting my consent on doing it. I
22 believe that's about all that I have.

23 THE COURT: Mr. Ferrebee, first of all, you also allege in
24 this that you're calling into question his integrity, honesty
25 and ability to practice law.

1 I want to assure you that Mr. Osborne has appeared before
2 this Court and the Federal Courts on numerous occasions, and
3 he's considered highly respected and very able, all right.
4 That's not even an issue in this. Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. And your comments about his honesty
7 and integrity are of no value to me in making a decision in
8 this case. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Now -- is it Joshua?

11 THE DEFENDANT: Josiah.

12 THE COURT: He's been in court, and he has asked the Court
13 for you to be psychologically evaluated, right?

14 THE DEFENDANT: Yes.

15 THE COURT: You say you didn't have counsel. He's your
16 counsel. Do you understand?

17 THE DEFENDANT: Yes.

18 THE COURT: This is called legal strategy. So that's off the
19 board. You're not entitled to counsel, when you go before -- to
20 have a psychological evaluation. And the fact that it's done in
21 Washington --

22 THE DEFENDANT: State of Washington.

23 THE COURT: It could have been anywhere. Do you understand?
24 That's part of the process, and it's costing the Government a
25 lot of money to have you psyched, okay? And he wants to see his

1 discovery.

2 MR. OSBORNE: Judge, I saw him on April the 10th, I have
3 here. Prior to that, I saw him on 2/10. I go out to see Josiah
4 when things come up -- I've gotten discovery, I just got the
5 ending discovery last Friday. I dropped it off to him. He wants
6 me to make pre-trial motions for him.

7 THE COURT: He wants to what?

8 MR. OSBORNE: He wants me to make pre-trial motions for him,
9 which I will, if he does insist on making pre-trial motions.
10 But I did just get the discovery.

11 THE COURT: All right. You have the discovery that you
12 complained about now right?

13 THE DEFENDANT: Yes.

14 THE COURT: Okay, that's off the board. And you've requested
15 several times the discovery. He didn't have the discovery, he
16 just told me, okay? And He has forwarded to you copies of the
17 discovery.

18 You also complained in your filings something about a
19 suppression, which -- have you filed a suppression?

20 MR. OSBORNE: I did not file a suppression yet, Your Honor,
21 I just got discovery. So based upon our discussions and
22 strategy with acceptance of responsibility and stuff, we are
23 going to talk about that, and if he insists on having that
24 motion filed, we will.

25 THE COURT: Well, that again goes to a question of legal

1 strategy, all right. Now, whether or not he filed a suppression
2 motion, he's not going to file one if it's not appropriate. Do
3 you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. I find no basis, at all, for your request
6 for change of counsel, all right.

7 THE DEFENDANT: Okay.

8 THE COURT: You have a lawyer who is very capable, who is
9 very well -- he's highly respected and has lots of experience,
10 so your motion and petition is denied.

11 And my advice to you would be, while he's here, if the
12 Marshal would arrange for it, for you to be able to sit down
13 with your lawyer, okay?

14 THE DEFENDANT: Okay.

15 THE COURT: Motion denied. Thank you.

16 (At this time the proceedings were concluded.)

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1 C E R T I F I C A T E
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4 United States District Court for the Middle District of
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13 S/Kristin L. Yeager
14 KRISTIN L. YEAGER, RMR, CRR
Official Court Reporter

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REPORTED BY:

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